IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

Arb.A.No. 16 of 2007()

(AGAINST THE ORDER DT.21.5.07 PASSED BY THE ARBITRATOR IN THE ARBITRATION PROCEEDINGS IN RESPECT OF THE FIRM KAMALA INTERNATIONAL TOURIST HOTEL.)

APPELLANT/IST RESPONDENT

P.K.MANOHARAN, AGED 47 YRS,
S/O.LATE P.V.BALAKRISHNAN NAIR,
RESIDING AT RAJESWARI BHAVAN, POOTHAPARA,
AZHIKODE AMSOM DESOM.

BY ADV. SRI.V.R.KESAVA KAIMAL
SRI.N.M.MADHU

RESPONDENTS:/ PETITIONER/ RESPONDENTS 2 & 3
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1. **SMT.P.K.KAMALA, AGED 77 YRS.,**
   W/O.LATE P.V.BALAKRISHNAN NAIR, PARTNER,
   KAMALA INTERNATIONAL TOURIST HOTEL, RESIDING
   NEAR TAJMAHAL HOUSE, CHIRAKKAL AMSOM DESOM.

2. **SMT.P.K.KRISHNAKUMARI, AGED 60 YRS.,**
   D/O.LATE P.V.BALAKRISHNAN NAIR, PARTNER,
   KAMALA INTERNATIONAL TOURIST HOTEL, 12/A,
   CONTONMENT, NEAR GOVT. GUEST HOUSE,
   KANNUR.

3. **SMT.P.K.SREELATHA, AGED 54 YRS.,**
   D/O.LATE P.V.BALAKRISHNAN NAIR, RESIDING AT
   RAJ BHAVAN, 12 CONTONMENT THROUGH POWER OF
   ATTORNEY HOLDER, P.K.KRISHNAKUMARI.

BY

THIS ARBITRATION APPEALS HAVING COME UP FOR ADMISSION ON 04/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B. KOSHY and K.P.BALACHANDRAN, JJ.

ARB.A. No. 16 of 2007

Dated this the 4th day of June, 2007

Judgment

Koshy, J.

This appeal is filed against the order passed by the Arbitrator. On going through the appeal, this is a classical example for delaying the proceedings. Earlier, three arbitrators were appointed by this court, but, Hon'ble Apex Court set aside the same and appointed the present arbitrator to decide the issue. Accordingly, the arbitrator started the proceedings. The appellant filed a petition for hearing and deciding certain preliminary points. First, it was contended that there must be de novo proceedings by the arbitrator. The arbitrator found that some statements were filed by both parties before the earlier arbitrator. Even though additional statements, if necessary, can be filed by the parties, there is no point in making the parties to file the very same statement again if there are no additional point. Therefore, earlier statements filed by both sides were accepted by it. We see no ground to differ from the arbitrator. According to the appellant, a fresh Chartered Accountant should be appointed instead of Sri.O.Pankajakshan appointed by the

earlier arbitrator. The arbitrator has recorded that the first respondent (appellant herein) has stated that there is no substantial objection in appointing the very same Accountant. Therefore, Shri Pankajakshan was appointed as the Auditor.

2. With regard to impleadment of Kamala International, Kannur, arbitrator stated that one of the issues to be decided is whether Kamala International is a sister concern or not and it can be decided on the basis of preliminary issue. No findings were entered in the decision.

3. There was another contention that Smt.P.K.Sreelatha should be allowed to be represented by another person. The arbitrator was satisfied that there was no necessity as arbitrator found that she was capable of contesting the case. With regard to the question whether Sri.Amarjith should be impleaded, it was observed that the issue regarding impleadment itself is an issue so that it has to be decided on the basis of evidence. Therefore, those preliminary objections were disposed of. After going through the order, we see that no prejudice is

caused to both sides by the above decision and there is no illegality or lack of jurisdiction. We dismiss the appeal.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

vaa

J.B. KOSHY AND
K.P.BALACHANDRAN, JJ.

ARB.A.NO.16/2007

JUDGMENT

Dated:4th June, 2007